

Mr. DUNCOMB'S CASE.

MR. Duncomb is Accus'd by Bill in the following Words; And whereas it appears, as well by Proof, as by the Voluntary Confession of Charles Duncomb Esq; late Cashier of His Majesty's Revenue of Excise openly made in the House of Commons, That the said Charles Duncomb is guilty of Conveying and Advancing the making of false Endorsements of several of the said Bills, and paying the same into the Receipt of Exchequer, as if Received for Excise, whereas he well knew that the said Bills had not been Received for the said Duty, to great Credit of His Majesty, and corruptly making an Ostracism of himself; He is therefore Enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That be the said Charles Duncomb, shall as a just Punishment for such his Treasonable and Misdemeanours, forfeit to His Majesty His Heirs and Successors, Two Third Parts of all his Manners, Lands, Tenements and Hereditaments, which he, or any Person or Persons in trust for him, was, or were seized of upon the 25th Day of January, 1697, or any time since; and Two Third Parts of all his Goods and Chattels, which he, or any other for him was or were possessed of, or to which he had Right the said 25th Day of January, or at any time since, and shall be for ever hereafter incapable of having or holding any Office or Place of Profit or Trust under His Majesty His Heirs, or Successors.

The Accusation consisting of Facts capable of Proof, he humbly hopes, That a Bill of this extraordinary Nature with such high Persecutions, will not pass in the House of Peers, unless the Crimes and Facts alleged can be fully made out.

As to the Voluntary Confession, upon which the Bill is founded, he hopes as an English-Man, and a Freeholder in this Kingdom, That he shall have the Right done him to have this Allegation in the Bill fairly examin'd, and well prov'd; for, according to the best Recollection he is able to make, he doth not believe that any Concern he might be in at that time, could so deprive him of his Reason, as to acknowledge himself Guilty of That which is neither true in it self, nor supported by any Proof.

And, as an Inducement to pass the Bill, and as an Aggravation of his Crime, he was Accus'd at the Bar of the House of Commons, to have been the first who brought a Disreputation upon Exchequer Bills.

But when the Facts alleg'd against him shall be thoroughly look'd into, and when the Witnesses both for and against him, shall be examin'd upon Oath, he hopes there will appear sufficient Reasons not to pass the Bill.

As to his being the first who brought Discredit upon the Exchequer Bills, the contrary will be evident to such as consider, that before the Fact of which he is Accus'd, viz. about the end of March last, The Treasurer had Conf'd with Mr. D'Acosta and others, to remit Fifty Thousand Pound Sterling to Flanders, for which they Received Fifty Thousand Pound in Exchequer Bills, taking the Bills of Mr. D'Acosta, and Jose concern'd with him, at double Value, and at Nine Guilders Ten Stivers for the Pound Sterling, which will be found to be a Discount of about Sixteen per Cent. And they who understand the Exchange know, that this was the first Wound that was given to Exchequer Bills: And when Mr. D'Acosta could part with Exchequer Bills at 5 per Cent. Discount, he gave his Bills in Flanders for Ten Guilders Eight Stivers, which was 9 per Cent. more than he gave before, and so much was clearly fav'd to the Publick. The Transactions of Private Men, could not hurt the Credit of Exchequer Bills so much, as what was done by Authority, and upon Inquiry the Lords may be satisfy'd that the Fifty Thousand Pound about the latter end of March, was so Remitted, tho the Act appropriates the first Two Hundred Thousand Pound for Payment of Quarters in England, which Bills for Quarters were not issu'd out till the latter end of April.

The Fact in Mr. Duncomb's Case plainly stands thus.

He was Receiver-General or Cashier of the Excise; and on the 7th of May last, he was Dismiss'd from his Employment, at which time there remain'd in his Hands Sixteen Thousand Four Hundred and Twenty Six Pounds, Four Shillings and Six Pence Half-penny, and no more, and was paid thus.

	l.	s.	d.
At the Excise-Office in Money	4120	16	11
At the Exchequer by Orders in Courte at Mr. Palmer's Office	3022	13	06
12th. At the Exchequer in Bills receiv'd in the Excise	1397	09	5
In Bills had of Mr. D'Acosta	7884	09	6
In Money	6200	15	2
Total	16426	04	06

Mr. Duncomb took it, That the Law did sufficiently warrant him to Pay the Ballance of his Account, which was to be paid into the Exchequer in Exchequer Bills; And in his Proceedings he was guided by the written Letter of the Law, and by the Act intitled, An Act for making good the Deficiencies of several Funds therein mention'd, and for enlarging the Capital Stock of the Bank of England, and for raising the Publick Credit, which Act is recited in a Proclamation bearing Date the 23d of April, the Words of the Act are as follows.

To the End the said Bills may be of more general Use, as well for the Occasions of the War, as for the Publick Commerce and Trade; It is Enacted, That the said Bills shall be Received and Taken, not only by Receivers or Collectors of the Taxes or Supplies granted, or to be granted for the Year 1697, but shall also pass, and be current to all and every the Commissioners, Receivers, or Collectors of any Revenue, Aid, Tax, or Supply whatsoever already granted, or that shall or may be granted during this present Session of Parliament, either for the Year or any other Year; and also at the Receipt of the Exchequer from the said Commissioners, Receivers, or Collectors, or from any other Person whatsoever, making any Payments there to His Majesty upon any Account whatsoever.

Which Clause in the Act and Proclamation, Mr. Duncomb believ'd did, and would justify him, in paying the Ballance of his Account with those Bills; And upon the 12th of May, when he went to Mr. Peters at the Exchequer to make his Payment of Nine Thousand Two Hundred and Eighty Two Pounds, Fourteen Shillings and a Penny, he told him the Difference of those Bills, viz. That One Thousand Three Hundred and Ninety Seven Pounds, Nine Shillings and Five Pence, had actually pass'd the Revenue, as did appear by their Endorsement; and that the other Seven Thousand Eight Hundred and Eighty Four Pounds, Nine Shillings and Six Pence, had not pass'd the Revenue, being not Endors'd in the same manner, and having only a Name; whereupon Mr. Peters did Receive them, and gave Mr. Duncomb Tallies of Discharge for the whole Sum of Nine Thousand Two Hundred and Eighty Two Pounds, Fourteen Shillings and a Penny: At the same time Mr. Peters told Mr. Duncomb, the Trustees had not yet found any Method for the Endorsement of the Exchequer Bills, and afterwards came and desir'd him, that those Bills which had not pass'd the Revenue, might be chang'd into Money, which Mr. Duncomb refus'd, he thinking himself no ways oblig'd to do it, as having made a legal Payment.

He thought himself not only justify'd by Law, but by the Actual Practice of the Excise Office; for before his Payment in Exchequer Bills was made, there were Directions from above given to the Excise-Office, to receive Exchequer Bills in Payment of Bills of Exchange, which were drawn payable in New Money or Gold, which Bills of Exchange many of them were given for New Money Receiv'd out of the Country Mints: And 'tis apparent these Bills were procured by the Merchants for that purpose, and with a certain View of profit, and being taken in the Revenues by Publick Authority, he thought it no Crime in him to do what was done by others in the same Circumstances with himself.

And his Proceeding in this Matter, as well as that of other Persons, seems justify'd by the Honourable the House of Commons, which by a Printed Vote of February the 22d. has declared, That the receiving Exchequer Bills in the Revenue of Excise upon Bills of Exchange, drawn Payable in Silver, Gold, and Money, was not contrary to Law, and not a Loss to the Publick.

He hopes his Case, in some Circumstances, is parallel with theirs whom this Vote has Clear'd; and in other Circumstances, a great deal more Favourable of his side. The Ballance due from him, and paid in Exchequer Bills, was for Money receiv'd at the Tower; part of the Bills of Exchange sent up, were for Money receiv'd at the Country Mints; the Officers of Excise in London were in the King's Service, the Merchants on whom they were drawn, were not, and Mr. Duncomb was out of his Employment when the Payment was made; his Payment in Exchequer Bills was but of Seven Thousand Eight Hundred Eighty Four Pounds Nine Shillings Six Pence, theirs was for upwards of One Hundred Thirty Thousand Pounds. His Bills paid in were Signed only with a Name blank. Theirs were Endors'd as if they had been paid in for Duty to the King, and as if they had pass'd the Revenue, which was not so. The Trustees were not Oblig'd by their Contract to Exchange Mr. Duncomb's Bills for Money, but they were Oblig'd to Exchange the Bills for upwards of One Hundred Thirty Thousand Pounds, by which the Publick lost Ten Four per Cent. The King had a Remedy against Mr. Duncomb, if his Payment was not good as set forth in Law, but he has no Remedy against what was thus Transacted between the Excise Officers and the Merchants, as being in a manner concluded by the Act of his own Officers. For which Reasons he humbly hopes, that as others, whose Case in Appearance is not so favourable, have been publicly justify'd, so, that upon due Consideration, his Payment will not be judg'd illegal.

As to what is pretended to be a False Endorsement.

The Endorsement that the Law requires is the day of the Month and Year when paid, and upon what the same was paid, to be attested by the Name of the Person who paid the same.

Mr. Duncomb's was no such Endorsement, for when some of these Bills were carry'd to the Trustees to be exchange'd, they refus'd them, declaring such a Name was no Endorsement: And the false Endorsements of which others are accus'd, are Fraudulently fill'd up intirely, and the Names Counterfeited, and took Effect as if they had been really paid into some Part of the Revenue: 'Tis indeed alleg'd, That one Pringle, a Clerk, some Months afterwards, when Mr. Peters was out, inditing some of these Bills in the Office, fill'd them up with a Day, Month, and Year, and paid into the Excise, which made it a false Endorsement, but this was the Act of Pringle, and not pretended to have been done with the least Privy of Mr. Duncomb.

As to his Transacting with Mr. D'Acosta, he doubts not but to prove manifestly That it was in the following manner:

Upon his Dismission, being to Pay in the Ballance of his Account, he dealt with Mr. D'Acosta partly in Money, and partly for some Orders of Courte, due in the Exchequer, but not then paid, for Seven Thousand Eight Hundred Eighty Four Pounds Nine Shillings Six Pence in Exchequer Bills. When these Bills were brought to him, Mr. Duncomb, in order to know who he had then receiv'd (it being commonly apprehended at that time, that Exchequer Bills might be Counterfeited) did desire Mr. D'Acosta to set his Name to the Bills, which he did to some of them; and of his own accord, Mr. D'Acosta, (without being thereunto induc'd by any Persuasion of Mr. Duncomb's, as he himself must own when he comes to be examin'd upon Oath) did put the Names of his Packer and others, whose Names he made use of upon other Occasions, saying, He feared it would disoblige the Lords of the Treasury, if his Name should appear to so many Bills at that time.

Note, That Mr. D'Acosta own'd at the Bar of the House of Commons, That he set the Names of his Packer and others upon those Exchequer Bills, it being, as he there said, customary for Merchants to Sign Bills of Exchange, Bills of Lading, Invoices, and other Bills in that manner.

It being evident that Mr. Duncomb had no Contrivance with Mr. D'Acosta, it remains for him to show that he could have no Intention to make these Bills pass upon Mr. Peters for other than what they were.

If he had design'd to impose on the Exchequer, he might have put upon these Bills the Names of such Brewers as were wont to make payments into the Excise, and not the Name of a Foreigner, who was publickly known to have no Dealings there.

There are Reasons to believe Mr. Peters knew the Man and his Profession, at least that he was no Frower. Mr. Duncomb did prove the One Thousand Three Hundred Ninety Seven Pounds Nine Shillings Five Pence to be fully endors'd, and that he declared at the Payment, that the others were not paid into the Excise; nor does Mr. Peters say, that Mr. Duncomb declared that the other Seven Thousand Eight Hundred Eighty Four Pounds Nine Shillings Six Pence had pass'd through the Revenue, but Mr. Peters pretends, that because there were Names on them, he imagin'd they might be Received in the Excise: But this Assertion of his seems altogether impossible, because,

First, The One Thousand Three Hundred Ninety Seven Pounds Nine Shillings Five Pence Bills were ally Endors'd, and he being to cast up the Interest of every Bill, must take them up in his hands one by one, and consequently see the difference that was between them.

Secondly, They are set down in Peter's own Book in two distinct Articles, viz. In Exchequer Bills One Thousand Three Hundred Ninety Seven Pounds Nine Shillings and Five Pence. In Exchequer Bills Seven Thousand Eight Hundred Eighty Four Pounds, Nine Shillings and Six Pence, which separate Way of keeping this Account, must of necessity proceed from his making the aforesaid Distinction between the Bills.

Besides, it can be prov'd, That Mr. Peters had Three Thousand Pounds in Bills of the like Nature of his own, refus'd at another Office; and the Reason assign'd to him for the Refusal was, That it was impossible for many Bills to be sent to the Excise, from whence may be justly argu'd, That there is no manner of likelihood (that within four Days after his own Bills had been refus'd or so plain a Reason) Mr. Peters should Receive almost Ten Thousand Pounds, without asking this Obvious Question: Whether all these Bills had pass'd the Revenue, or no?

This being the true state of his Case in relation to the Confession alleg'd to have been made in the House of Commons, and concerning his Transactions, first with Mr. D'Acosta, and then with Mr. Peters, he hopes it will appear,

- First, That he has not made any Voluntary Confession of being Guilty of Conveying and Advancing the making of False Endorsements.
- Secondly, That he was far from being the first who brought a Discredit upon Exchequer Bills.
- Thirdly, That the Payment of his Ballance in Exchequer Bills was, and is justifiable by the Law, declar'd in the King's Proclamation, by the practice of the Excise-Office, since his Dismission, and by the Similitude his Case bears with their Case, who have been lately clear'd by a Vote of the House of Commons.
- Fourthly, That the Bills paid in by him, can in no sense be interpreted to have a false Endorsement upon them, they having only a Name, which made them no less valid as money, nor other than any Law-issued in Mr. Duncomb's.
- Fifthly, That Mr. D'Acosta did set the Names of his Packer and others upon the Bills of his own Accord, and not at the Instance or Persuasion of Mr. Duncomb.
- Sixthly, That he never intended to impose these Bills on the Exchequer, as having gone through the Excise, And that Mr. Peters, as well by Mr. Duncomb's Declaration at the time, as by other Circumstances, must of necessity know that part of these Bills had, and part had not pass'd through the Revenue, which of it self clears Mr. Duncomb of any Fraudulent Intention.

And when the Prentises shall be duly consider'd, and all Matters examin'd upon Oath, he doubts not but that his Innocence will be made apparent, and that the Lords, upon whose Justice with all Humility he throws himself, will see good Reasons not to pass the Bill now brought against him.